



**City of Bellevue
Development Services Department
Land Use Staff Report**

Proposal Name: Li Residence

Proposal Address: 1472 W Lake Sammamish PKWY NE

Proposal Description: Critical Areas Land Use Permit and Land Use Code Variance approval to construct a new single-family residence within the toe-of-slope structure setback from a steep slope critical area. The proposal is to reduce the structure setback from 75 feet to 25 feet. The variance request is to reduce the side yard structure setback from a total of 15 feet down to 10 feet (two 5-foot side yard setbacks), and to reduce the structure setback from an access easement from 10 feet down to 5 feet. The proposal is supported by a Critical Areas Report, Geotechnical Evaluation, and Mitigation Planting Plan.

File Number: 19-129343 LO, 19-128183 LS


Applicant: Qun Li

Decisions Included: Critical areas Land Use Permit
(Process II. LUC 20.30P)
Variance from the Land Use Code
(Process II. LUC 20.30G)

Planner: Richard Hansen, Associate Planner

**State Environmental Policy Act
Threshold Determination:** **Exempt (WAC 197-11-800)**

Department Decision: **Approval with Conditions**

 For

Elizabeth Stead, Land Use Director
Development Services Department

Application Date:	November 22, 2019; October 30, 2019
Notice of Application Publication Date:	March 26, 2020; December 5, 2019
Decision Publication Date:	February 10, 2022
Appeal Deadline:	February 24, 2022

For information on how to appeal a proposal, visit Development Services Center at City Hall or call (425) 452-6800. Appeal of the Decision must be received in the City's Clerk's Office by 5 PM on the date noted for appeal of the decision.

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1. Site Plan
2. Critical Areas Report – Cedarrock Consultants, Inc.
3. Geotechnical Report – Geo Group Northwest, Inc.

I. Request & Review Process

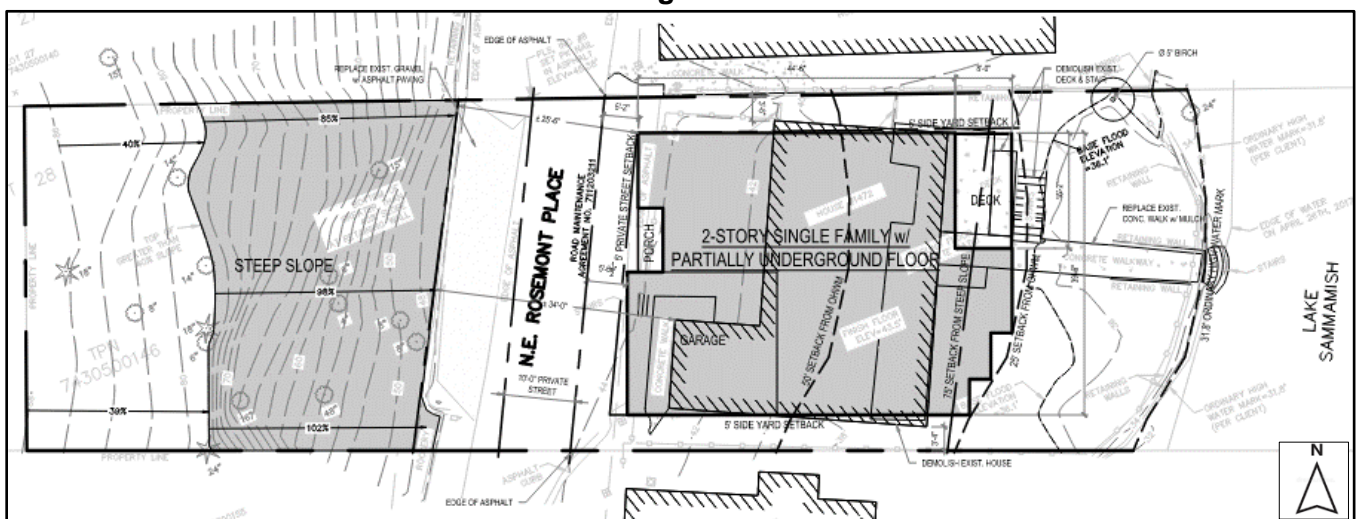
The applicant has requested a Critical Areas Land Use Permit to redevelopment the property with a new, 2-story single-family residence with a partial basement and attached deck that will have a building footprint of approximately 1,994 square feet. The site is currently developed with an existing private access easement (NE Rosemont Beach Road), driveway, and 1-story residence with a basement and a deck constructed in 1942. The residence and deck will be demolished. The existing residence is currently located within the required 75-foot toe-of-slope structure setback from the steep slope critical area on the west side of NE Rosemont Place, and within the required 50-foot shoreline structure setback on the east side of the residence.

The new residence will expand the building footprint and create up to 600 square feet of new permanent disturbance within the steep slope structure setback. The proposal includes approximately 600 square feet of mitigation planting that will be placed on the lake side of the residence. Proposals to permanently modify a steep slope structure setback require the approval of a Critical areas Land Use Permit (CALUP) with Critical Areas Report and are subject to the requirements of LUC 20.25H and LUC 20.30P, including but not limited to those sections governing steep slopes, Critical Areas Reports, and mitigation.

The applicant has also requested a variance to reduce the required 10-foot structure setback from an access easement (NE Rosemont Beach Road) down to 5 feet. The request includes reduction of the required 15-foot (combined) side setback down to 10 feet (combined) with 5 feet on both sides of the new residence. Compliance with the minimum setback of 5 feet is required. Proposals to modify Land Use Code standards, except where expressly prohibited from modification, are required to receive approval of a Variance from the Land Use Code. Review of a Variance is subject to the requirements of LUC 20.30G and sections of the Land Use Code which the Variance requests to modify.

See Figure 1 for proposed site conditions.

Figure 1



II. Site Context & Description

A. Site Description

The existing site improvements include a single-family residence, access easement (N. Rosemont Drive), driveway, and typical residential landscaping. The site is located along the Lake Sammamish shoreline and contains regulated steep slope critical area on the portion of the property west of the N. Rosemont Drive access easement. The existing single-family home and improvements are located within the steep slope buffer. Large portions of the steep slope buffer contain degraded conditions typical of single-family residences (residential structure, impervious surface, landscaping, etc.). While the steep slope buffer is degraded with the single-family residential improvements, the steep slope area is well vegetation with a variety of mature, evergreen trees. Soils on the steep slope were observed to generally grade from glacially consolidated, massive silt upward to stratified silty, fine-grained sand per the Slope Stability and Geologic Critical Areas Assessment provided by Geo Group Northwest, INC on March 15, 2021. See Figure 2 below for the current site conditions.

Figure 2



B. Zoning & Subarea

The property is zoned Single-Family Residential (R-2.5) and is located within the Northeast Bellevue Subarea. See Figure 3 for zoning map.

Figure 3



C. Land Use Context

The property has a Comprehensive Plan land use designation of Single-Family Medium Density (SF-M). The property is bordered on all sides by single-family development and zoning (R-2.5), with Lake Sammamish on the east side of the properties. See Figure 6 for Comprehensive Plan designation.

Figure 4



D. Critical Areas Functions and Values

i. Geologic Hazard Areas

Geologic hazards pose a threat to the health and safety of citizens when commercial, residential, or industrial development is inappropriately sited in areas of significant hazard. Some geologic hazards can be reduced or mitigated by engineering, design, or modified construction practices. When technology cannot reduce risks to acceptable levels, building in geologically hazardous areas is best avoided (WAC 365-190).

Steep slopes may serve several other functions and possess other values for the City

and its residents. Several of Bellevue's remaining large blocks of forest are located within steep slope areas, providing habitat for a variety of wildlife species and important linkages between habitat areas in the City. These steep slope areas also act as conduits for groundwater, which drains from hillsides to provides a water source for the City's wetlands and stream systems. Vegetated steep slopes also provide a visual amenity in the City, providing a "green" backdrop for urbanized areas enhancing property values and buffering urban development.

ii. Shorelines

Shorelines provide a variety of functions including shade, temperature control, water purification, woody debris recruitment, channel, bank and beach erosion, sediment delivery, and terrestrial-based food supply (Gregory et al. 1991; Naiman et al. 1993; spence et al. 1996).

The subject site has frontage along the shoreline of Lake Sammamish. In accordance with LUC 20.25H.115, sites developed with an existing residence are subject to a 25-foot shoreline buffer with an additional 25-foot structure setback measured from the Ordinary High Water Mark of Lake Sammamish from elevation 31.8 NAVD. The current site development consists of a single-family residence and deck. The shoreline buffer and structure setback are considered to be in a developed and degraded condition. In response, the applicant has submitted a Critical Areas Report documenting the site's condition. The applicant is proposing to redevelop the site with a new single-family residence and deck in a similar location within the shoreline setback and the applicant has requested a modification of the shoreline structure setback. See project plans included as Attachment 1 to this report.

To compensate for the impacts to the shoreline structure setback and location of the residence at the edge of the shoreline buffer the applicant has prepared a mitigation plan that includes planting a maintenance of vegetation along the shoreline of Lake Sammamish. See project Critical Areas Report included as Attachment 2 of this report and the critical area impacts plan included as Attachment 3. Compliance with the 25-foot buffer is required. No building elements may protrude into the required shoreline buffer.

III. Consistency with Land Use Code Requirements:

A. Zoning District Dimensional Requirements:

The site is located within the R-2.5 zoning district. Excluding the setbacks as discussed in Section VIII of this report, review of the proposal found that applicable dimensional requirements for lot coverage, and impervious surface are in compliance with the standards and limitations of LUC 20.20.010. All zoning dimensional standards will be confirmed during review of the required building permit. See Section X for conditions of approval related to required Building Permit.

B. Consistency with Land Use Code Critical Areas Performance Standards:

i. Steep Slope & Geologic Hazards Performance Standards – 20.25H.125

The applicant is not proposing any development or construction within the steep slope critical area or top-of-slope buffer. The proposal is to expand the existing footprint of the residence within the 75-foot toe-of-slope structure setback by approximately 470.3 square feet. The impacts of permanent disturbance within the steep slope structure setback will be mitigated by planting three (3) trees along the shoreline of Lake Sammamish, which is expected to cover approximately 600 square feet of area.

The applicant's geotechnical engineer has evaluated the slope and the proposed construction and recommends that the structure can safely be located within 25 feet of the toe-of-slope within further risk. See the project Geotechnical Report (Attachment 2). No modification to the slope or top of slope buffer is proposed or authorized as part of this Critical Areas Land Use Permit.

C. Consistency with Critical Areas Report LUC 20.25.230.

The applicant supplied a complete critical areas report prepared by Cedarock Consultants, Inc. and Geo Group Northwest, Inc., both qualified professionals (Attachment 2 & 3). The report met the minimum requirements in LUC 20.25H.250.

IV. Public Notice and Comment

Critical Areas Application Date:	November 22, 2019
Critical Areas Public Notice (500 feet):	March 26, 2020
Critical Areas Minimum Comment Period:	April 9, 2020
Variance Application Date:	October 20, 2019
Variance Public Notice (500 feet):	December 5, 2019
Variance Minimum Comment Period:	December 19, 2019

The Notice of Application for this project was published in the City of Bellevue Weekly Permit Bulletin on November October 20, 2019, for the Variance and November 22, 2019, for the CALUP. Both notices were mailed to property owners within 500 feet of the project site.

Public comment was received from the owner of the south abutting property at 1462 W Lake Sammamish PKWY NE. The owner was concerned about how the variance to the side setback will affect the use of his property and how reduction of the steep slope setback might reduce available parking along N Rosemont Beach Road. The owner also raised a number of stormwater and groundwater concerns with any new construction and how that might impact his property.

In response to these concerns, the applicant discussed the project directly with the south neighboring property owner and resolve all his concerns.

V. Summary of Technical Reviews

Clearing and Grading:

The Clearing and Grading Division of the Development Services Department has reviewed the proposed development for compliance with Clearing and Grading codes and standards. The Clearing and Grading staff found no issues with the proposed development, however review under this permit does not constitute final Clearing & Grading approval. Clearing & Grading review is required to occur under any permit submitted to execute this scope of work, and final construction plans must be reviewed by the project geotechnical engineer prior to submittal. Due to the proximity of the on-site steep slope and the proposed work area, clearing and grading work is restricted during the rainy season or October 1st through April 30th. Geotechnical inspection is required during construction of the proposed improvements. See Section X for conditions of approval related to permit requirements, geotechnical review, rainy season restrictions, and geotechnical inspection conditions of approval.

Utilities:

City of Bellevue Utilities staff has reviewed the proposed development for compliance with City of Bellevue Utilities codes and standards. Utilities staff found no issues with the proposed development.

VI. State Environmental Policy Act (SEPA)

The proposal is exempt from SEPA review, per WAC 197-11-800(1) and BCC 22.02.032; construction of a single-family residence is a categorical exemption.

VII. Changes to Proposal as a Result of City Review

No changes were requested by City staff during the review of this proposal.

VIII. Decision Criteria

A. Critical Areas Critical Areas Land Use Permit Decision Criteria 20.30P

The Director may approve or approve with modifications an application for a critical areas land use permit if:

1. The proposal obtains all other permits required by the Land Use Code;

Finding: The applicant will be required to apply for a Building Permit after the approval of the Critical Areas Land Use Permit and Variance. See Section X for conditions of approval related to Building Permit requirements.

2. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer;

Finding: A number of constraints have been identified on the site which have led to the

application for Critical Areas Land Use Permit and Variances from the Land Use Code. Constraints include the steep slope critical area and the required 75-foot toe-of-slope structure setback along the western portion of the site, the 25-foot shoreline buffer and 25-foot structure setback, a lot narrower than the current land Use code allows, and the presences of an access easement/driveway through the center of the site. These restrictions have limited the options for redevelopment of the property. The applicant has designed the residence to occupy a specific area similar to the existing residence to minimize impacts to the critical area.

The design includes mitigation planting of native species appropriate for the shoreline environment. Three (3) trees will be planted as mitigation for the additional impervious surface area added to the steep slope structure setback because the steep slope area is already densely vegetated with native shrubs and mature native trees, and there is very little room between the toe-of-slope and the proposed residence because of the existing N. Rosemont Beach Dr. and parking areas. The better option for the steep slope mitigation plantings is along the shoreline to further enhance the shoreline environment and ecological functions.

The review of this permit is reliant upon the findings of qualified professionals submitted by the applicant as part of this proposal. The property owner will be required to execute a Hold Harmless Agreement releasing the City from liability for any improvements within the critical area and buffer. See Section X for conditions of approval related to the hold harmless agreement.

3. The proposal incorporates the performance standards of Part 20.25H to the maximum extent applicable, and ;

Finding: As discussed in Section III.B of this report, the proposal incorporates the performance standards of Part 20.25H to the maximum extent applicable.

4. The proposal will be served by adequate public facilities including street, fire protection, and utilities; and;

Finding: The site is currently served by adequate public facilities and no additional need is anticipated with this proposal. No change in public facilities service is anticipated.

5. The proposal includes a mitigation or restoration plan consistent with the requirements of LUC Section 20.25H.210; and

Finding: The applicant provided a complete critical areas report and preliminary critical area impact plan. The proposal includes a preliminary mitigation plan that provides native planting consistent with LUC 20.25H.210. The plan also contains a five-year maintenance and monitoring plan to ensure successful establishment of installed planting. See Section X for conditions of approval related to maintenance and monitoring

and mitigation.

6. The proposal complies with other applicable requirements of this code.

Finding: As discussed in Section III and V of this report, the proposal complies with all other applicable requirements of the Land Use Code.

B. Variance Decision Criteria 20.30G

The Director may approve or approve with modifications an application for a variance from the provisions of the Land Use Code if:

1. The variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and land use district of the subject property; and

Finding: Approval of a variance to reduce the required setback from an access easement from 10 feet down to 5 feet and reducing the total combined side setback from 15 feet down to 10 feet will not constitute a grant of special privilege to the applicant. The requested variance will result in a building pad which is consistent with the surrounding neighborhood. Houses in the vicinity have footprints which range in size from 1,200 square feet to 2,000 square feet with similar building dimensions. The City has previously approved variances for the neighboring property and has issued construction permits to remodel other homes in the area that retain their nonconforming status with regard to setbacks.

The proposed variance will result in increasing the potential building area by an additional 5 feet to the sides and 5 feet in the front. The proposal does not include modification to the maximum allowed lot coverage (35% of the total lot area), which is consistent with the building footprint of neighboring structures.

2. The variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property to provide it with use rights and privileges permitted to other properties in the vicinity and in the land use district of the subject property; and

Finding: The proposed variance to reduce the 15-foot combined side setback requirement down to 10 feet and reduction of the 10-foot access easement requirement down to 5 feet is necessary to allow development of a reasonable house given the size and shape of the property. The property is in the R-2.5 zone which requires a minimum lot width of 80 feet under current land use dimensional requirements, and the subject property is approximately 50 feet wide. Development is further constrained by the proximity of critical areas to the west (steep slope) and to the east (Lake Sammamish). Other properties along this private access easement

(NE Rosemont Beach Drive) have been granted a variance from the side setback and access easement requirement to redevelopment the sites.

3. The granting of the variance will not be materially detrimental to property or improvements in the immediate vicinity of the subject property; and

Finding: Granting of a variance is not expected to be materially detrimental to other property or improvements in the vicinity. The proposal will allow for development of the site in a manner similar in size, or below, to the neighboring single-family developments to the north and south. The current residence is located approximately 3'-6" feet from the north and 3'-4" from the south side property lines and a number of existing homes in the surrounding neighborhood have been built up to 3 feet from the site property lines. The nonconforming structure provisions of the Land Use Code could allow the existing residence to be remodeled with the same setbacks. Granting of the variance will allow the residence to be reconstructed with a 5-foot side setback to the north and south (combined total of 10 feet). The two properties to the north have been redeveloped within 5 feet of the side property line and a number of the homes to the south area built to 5 feet from the side property line. The two properties to the north at 1600 and 1604 W Lake Sammamish Parkway NE have been granted a variance to allow a 5-foot side setback (combined total of 10 feet). Said variances have been recorded with King County Records under file numbers 20150306000406 and 20200203001382, respectively.

The granting of a variance to 10-foot access easement setback will not be materially detrimental to property or improvements within the vicinity. There is a private access easement, NE Rosemont Place (A.k.a. NE Rosemont Beach Drive) for the subject property and for all the neighbors in the North Rosemont community. It was recorded in 1942 under recording number 3254706 and does not specifically identify the easement width or a specific easement location. In 1971, the North Rosemont Beach Road maintenance and Improvement Agreement was recorded by the owners under King County recording number 7112030211. This agreement provides terms for the maintenance for the private roadway but does not specify a particular width or location for the access easement or roadway. Lastly, the survey prepared by a professional land surveyor licensed in the State of Washington notes the location of the easement is approximate.

4. The variance is not inconsistent with the Comprehensive Plan.

Finding: The site is in the Northeast Bellevue Subarea and designated Single-Family Medium Density (SF-M) per the Comprehensive Plan. The overall density of the proposal complies with the designation of the site. The proposal is supported by the following policies of the Comprehensive Plan.

Land Use Goals and Policies

POLICY LU-6. *Encourage new residential development to achieve a substantial portion of the maximum density allowed on a net buildable acreage.*

Subarea Goals and Policies

POLICY S-NE-47. *Pursue opportunities for increasing tree canopy through planting of new trees on public and private property throughout Northeast Bellevue.*

POLICY S-NE-49. *Encourage natural stormwater best management practices and the reduction of water pollution.*

Environmental Policies

POLICY EN-20. *Maintain surface water quality, defined as meeting federal and state standards and restore surface water that has become degraded, to the maximum extent practicable.*

POLICY EN-30. *Regulate land use and development to protect natural topographic, geologic, vegetational, and hydrological features.*

POLICY EN-31. *Protection geologically hazardous areas, especially forested steep slopes, recognizing that these areas provide multiple critical area functions.*

POLICY EN-82. *Use prescriptive development regulations for critical areas based on the type of critical area and the functions to be protected; and as an alternative to the prescriptive regulations, allow for a site specific or programmatic critical areas study to provide a science-based approach to development that will achieve and equal or better result for the critical area functions.*

IX. Conclusion and Decision

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, City Code and Standard compliance reviews, the Director of the Development Services Department does hereby **approve with conditions** the proposal to construct a new single-family residence and deck at 1472 W Lake Sammamish Parkway NE and setback variance as shown on the proposed plans (Attachment 1).

Note – Expiration of Approval: In accordance with LUC 20.30P.150 a Critical Areas Land Use Permit automatically expires and is void if the applicant fails to file for a Building Permit or other necessary development permits within one year of the effective date of the approval.

Note – Recording of Variance: In accordance with LUC 20.40.500.B.1.a, the variance shall run with the land in perpetuity if recorded with King County Department of Records and Elections within 60 days of final City approval.

X. Conditions of Approval

The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to:

<u>Applicable Ordinances</u>	<u>Contact Person</u>
Clearing and Grading Code - BCC 23.76	Tom McFarland, 425-681-4231
Utilities Code - BCC 24	Jeremy Rosenlund, 425-452-4855
Land Use Code - BCC 20	Richard Hansen, 425-452-2739
Noise Control – BCC 9.18	Richard Hansen, 425-452-2739

The following conditions are imposed under the Bellevue City Code or SEPA authority referenced:

1. Building Permit Required: Approval of this Critical Areas Land Use Permit does not constitute an approval of a development permit. A Building Permit (with Clearing & Grading review) shall be required and approved. Plans consistent with those submitted as part of this permit application shall be included in the Building Permit application.

Authority: Land Use Code 20.30P.140
Reviewer: Richard Hansen, Land Use

2. Access Easement Setback: The required setback from North Rosemont Beach Drive is reduced to a minimum of 5 feet. This setback shall be confirmed through completion of a site survey executed by a land surveyor licensed in the State of Washington verifying the location of foundation concrete forms before the foundation is poured as part of the required building permit. No additional intrusions, including minor building elements and eaves are permitted within the reduced setback.

Authority: Land Use Code 20.30G
Reviewer: Richard Hansen, Land Use

3. Side Setback: The side setbacks on the north and south side of the property are reduced to a minimum of 5 feet (combined total of 10 feet). The side setback shall be confirmed through completion of a site survey executed by a land surveyor licensed in the State of Washington verifying the location of foundation concrete forms before the foundation is poured as part of the required building permit. No additional intrusions, including minor building elements and eaves are permitted within the reduced setback.

Authority: Land Use Code 20.30G
Reviewer: Richard Hansen, Land Use

4. Mitigation Plan: A final mitigation plan in accordance with the conceptual mitigation plan provided under this application shall be submitted for review and approval by the City of Bellevue prior to issuance of the Building Permit. The plan shall document the

total area of new critical area planting and the plans shall be consistent with the guidance provided in the City's Critical Areas Handbook.

Authority: Land Use Code 20.25H.105.C.3
Reviewer: Richard Hansen, Land Use

5. Maintenance and Monitoring: A maintenance and monitoring plan in conformance with the plan submitted under this application shall be submitted for review and approval by the City of Bellevue prior to issuance of the Building Permit. The mitigation plan shall be maintained and monitored for a minimum of five (5) years. Annual reporting shall be submitted at the end of each growing season or by December 1 for each of the five years this plan is applicable. All reporting shall be submitted by email to rhansen@bellevuewa.gov. or by mail to:

Environmental Planning Manager
Development Services Department
City of Bellevue
PO Box 90012
Bellevue, WA 98009-9012

Authority: Land Use Code 20.25H.220.D, 20.25H.220.H
Reviewer: Richard Hansen, Land Use

6. Assurance Device: A financial surety is required to be submitted to ensure the mitigation planting successfully establishes. An assurance device that is equal to 100% of the cost of plants, materials, and installation is required to be held for a period of five (5) years from the date of building permit issuance. A cost estimate detailing the cost of the plant materials, installation materials (mulch, soil, etc.), labor for installation, five years of maintenance, and five years of monitoring is required to be provided with the building permit. The financial surety is required to be posted prior to building permit issuance. Release of the surety after the 5-year monitoring period is contingent upon a final inspection of the planting by Land Use staff that finds the maintenance and monitoring plan was successful and the mitigation meets performance standards.

Authority: Land Use Code 20.25H.220.F
Reviewer: Richard Hansen, Land Use

7. Geotechnical Review and Recommendations: The project geotechnical engineer must review the final plans, including all foundation, retaining wall, and shoring designs and any critical cuts and fills. A letter from the geotechnical engineer stating that the plans conform to the recommendations in the geotechnical report and any addendums

and supplements must be submitted to the clearing and grading section prior to issuance of the construction permit.

Authority: Land Use Code 20.25H.125; Clearing & Grading Code 23.76.050
Reviewers: David Wong, Land Use; Tom McFarlane, Clearing & Grading

8. Geotechnical Monitoring: The project geotechnical engineer of record or his representative must be on site during critical earthwork operations. The geotechnical engineer shall observe all excavations and fill areas. In addition, the engineer shall monitor temporary soil cuts and verify compaction in fill areas. The engineer must submit field report in writing to the DSD inspector for soils verification and foundation construction. All earth work must be in general conformance with the recommendations in the geotechnical reports.

Authority: Bellevue City Code 23.76.160
Reviewer: Tom McFarlane, Clearing & Grading

9. Hold Harmless Agreement: Prior to building permit approval, the applicant or property owner shall submit a hold harmless agreement releasing the City of Bellevue from any and all liability associated with the steep slope buffer modification. The agreement must meet city requirements and must be reviewed by the City Attorney's Office for formal approval.

Authority: Land Use Code 20.30P.170
Reviewer: Richard Hansen, Land Use

10. Rainy Season Restrictions: No clearing and grading activity may occur during the rainy season, which is defined as October 1 through April 30 without written authorization of the Development Services Department. Should approval be granted for work during the rainy season, increased erosion and sedimentation measures, representing the best available technology must be implemented prior to beginning or resuming site work.

Authority: Bellevue City Code 23.76.093.A,
Reviewer: Tom McFarlane, Clearing & Grading

APPROXIMATE LOCATION OF
UTILITY AND PRIVATE
ROADWAY EASEMENT
AUDITORS FILE NO. 3329965

TOTAL STRUCTURAL AREA:	2,054 S.F. (33.7% --> OK)
------------------------	---------------------------

IMPERVIOUS SURFACE:	36.7% (OK)
(II) NET LOT AREA (8,620 - 2,510):	6,110 S.F.
STRUCTURAL AREA WITHIN ABOVE:	1,132 S.F.
EXIST. STREET ASPHALT & GRAVEL:	1,186 S.F.
TOTAL IMPERVIOUS AREA:	2,318 S.F. (37.9% → OK)

